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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,569	06/26/2003	Olivier Palluat de Besset	15675P465	4671

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EXAMINER

DWIVEDI, VIKANSHA S

ART UNIT

PAPER NUMBER

3746

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/606,569	Applicant(s) DE BESSET ET AL.	
	Examiner Vikansha S. Dwivedi	Art Unit 3746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/26/2006-10-13/2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9 and 14-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 14-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 4, 6, 7, 14, 15, 17-21 are rejected under 35 U.S.C. 102(b) as being unpatentable over Plank (U.S. Patent number 6,126,130).

Plank discloses a suspension device for an electric pump (4) of an assembly for drawing fuel in a motor vehicle, the device comprising: an outer support suitable for surrounding the electric pump (Column 2 line 41-44), centered on an axis parallel to the axis of the electric pump, and adapted to be secured to the fuel-drawing assembly; and at least one resilient arm (14(a) and 14(b)) connected to the inside periphery of said outer support (3), which resilient arm extends essentially in a plane that is transverse to the axis of said outer support and possesses a shape such as to rest at least substantially tangentially against the body of the electric pump over a fraction of its length in order to support it at a distance from the outer support (Shown in Figure 2); wherein the outer support is formed by a closed ring (3, Shown in Figure 2); wherein each arm carries a plurality of studs (15 and 16) adapted to apply identical stresses to a central electric pump body; wherein the arms are concave facing the axis O-O of the ring (Figure 3); wherein each arm carries at least one stud; wherein the resilient arms are symmetrical about the axis III-III of the ring; wherein the ring and the resilient arms

Art Unit: 3746

are made by a single molding of plastics material (Column 2 line 21-26); wherein the device being designed to be supported on a fuel-drawing assembly Figure 1; the device being formed integrally on an element of a fuel-drawing assembly 4; wherein one arm carries means adapted to act as an axial support for the electric pump, studs as shown in Figure 2; having means suitable for constituting an angular abutment for the electric pump body, the assembly as shown in Figure 1 sits on 4; wherein the assembly includes an electric pump suspension device, comprises of 3 and resilient arms 14a and 14b.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3, 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plank (U.S. Patent number 6,126,130) in view of Kemmner et al. (U.S. Patent number 4,362,476)

Plank discloses the invention substantially as claimed by the applicant. Plank does not provide teachings of a suspension device for an electric pump of an assembly for drawing fuel in a motor vehicle; wherein an open ring forms the outer support. Kemmner et al. discloses support structure for a fuel pump with the outer support being an open ring; wherein the open ring has two resilient arms uniformly distributed around

Art Unit: 3746

the axis. Kemmner et al. does not disclose the ring and having convex sides facing towards said axis. Kemmner provide the teachings for making the arms/support structure/fins/beams of different shapes and sizes, col. 3 ll. 50-61. At the time of invention was made it would have been obvious to one of ordinary skill in the art to have the resilient arms made in different shapes for the purposes of preferred embodiment and free suspension in the pump col. 3 ll. 50-61.

It would have been an obvious material choice to make the device out of polyoxymethylene. Prior art provides teachings of making the device out of plastic and polyoxymethylene is a known plastic material and it is also durable.

Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plank (U.S. Patent number 6,126,130) in view of Gunther (DE 4,336,574)

Plank discloses the invention substantially as claimed by the applicant except that the mean radius of each arm relative to a center coinciding with the axis of the pump decreases going towards the free end of the arm. Gunther clearly shows in figure 3 that the mean radius of each arm relative to a center coinciding with the axis of the pump decreases going towards the free end of the arm. At the time of invention it would have been obvious to one of ordinary skill in the art to decrease the mean radius of each arm relative to a center to provide a stable support.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoover 4,964,787 in view of Plank.

Hoover discloses a suspension device (abstract) for an electric pump 20 of an assembly for drawing fuel in a motor vehicle, the device comprising: an outer support 40 suitable

Art Unit: 3746

for surrounding the electric pump 20, centered on an axis parallel to the axis of the electric pump 20, Figure 2, and adapted to be secured to the fuel-drawing assembly col. 2 ll. 62-66; and at least one resilient arm 52 connected to the inside periphery of said outer support 40, which resilient arm extends essentially in a plane that is transverse to the axis of the said outer support 40 and possesses a shape such as to rest at least substantially tangentially against the body of the electric pump 20, seen in Figure 4 and 9, over a fraction of its length in order to support it at a distance from the outer support 40. Hoover does not disclose studs placed on the arm. Plank discloses a resilient arm, which has studs 17 and 18 as seen in Figure 2, and one is half way and the other is at the end. At the time of invention it would have been obvious to one of ordinary skill in the art to modify Hoover in view of Plank to provide a cost effective design that can be assembled in a simple way col. 1 ll. 45-55.

### ***Response to Arguments***

Applicant's arguments filed 9/26/2006 have been fully considered but they are not persuasive. Regarding applicant's argument that Plank does not disclose a resilient arm "extending essentially in a plane" it should be noted that the resilient arm 14(a) and 14(b) is in plane II-II as seen in Figure 1 and 2. With regard to applicant's argument that the arm does not "rest" against the body of the electric pump it should be noted that resilient arm 14(a) and 14(b) rests against pump 4.

With regard to applicant's argument regarding prima facie case of obviousness it should be noted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it

Art Unit: 3746

that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In re Keller, 642 F. 2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In this regard, a conclusion of obviousness may be based on common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F. 2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). It should also be noted that it is not required that the prior art disclose or suggest the properties newly-discovered by an applicant in order for there to be a prima facie case of obviousness. See In re Dillon, 919 F.2d 688, 16 USPQ2d 1897, 1905 (Fed. Cir. 1990). Moreover, as long as some motivation or suggestion to combine the references is provided by the prior art taken as a whole, the law does not require that the references be combined for the reasons contemplated by the inventor. See In re Beattie, 974 F.2d 1309, 24 USPQ2d 1040 (Fed. Cir. 1992); In re Kronig, 539 F.2d 1300, 190 USPQ 425 (CCPA 1976) and In re Wilder, 429 F.2d 447, 166 USPQ 545 (CCPA 1970).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3746

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Application/Control Number: 10/606,569

Page 8

Art Unit: 3746

  
VSD

November 30, 2006



EHUD GARTENBERG  
SUPERVISORY PATENT EXAMINER